

ORDINANCE NUMBER O- 20621 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 08 2016

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, FOR THEIR APPROVAL OR REJECTION AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE PRIMARY ELECTION TO BE HELD ON JUNE 7, 2016, ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE VII, SECTION 111, BY AMENDING AND RETITLING THE SECTION AND REPEALING LANGUAGE RELATING TO AUDITS AND INVESTIGATIONS BY THE CITY AUDITOR OF CITY OFFICIALS AND OFFICERS UPON THEIR DEATH, RESIGNATION, OR REMOVAL FROM CITY OFFICE.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code section 9255(a)(2), and San Diego City Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. O-20603, introduced and adopted on February 8, 2016, the Council has called a Municipal Special Election to be consolidated with the California State Primary Election to be held June 7, 2016, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, in 1931, City Charter section 111 was enacted to require the then-Office of the Auditor and Comptroller to conduct audits and investigations of City officials and officers upon their death, resignation, or removal from City office; and

WHEREAS, the objectives of such close-out audits are to ensure separated City officials and officers do not have any outstanding debt owed to the City and that appointing authority rights have been revoked; and

WHEREAS, due to the investigation of the City's retirement system and sewer rate structure by the federal Securities and Exchange Commission (SEC), as well as the issuance of

various investigative reports by different agencies on these matters in 2005, the City Council was instructed by the SEC to complete a thorough investigation into its own finances and develop a plan for remediation; and

WHEREAS, in response to this direction, the City Council retained Kroll, Inc. (Kroll) to evaluate those reports and to make appropriate recommendations to the City Council, which resulted in the issuance of the Kroll Report on August 8, 2006; and

WHEREAS, among other things, the Kroll Report recommended that this close-out audit function of City officials and officers set forth in Charter section 111 be assigned to an independent City Auditor; and

WHEREAS, in March 2008, the City Council approved Ordinance No. O-19718, which authorized the submission of various Charter amendments, including the revisions pertaining to Charter section 111, to San Diego voters; and

WHEREAS, in June 2008, San Diego voters approved Proposition C, which amended the City Charter to assign the function of conducting this close-out audit and investigation function to the newly created, independent City Auditor; and

WHEREAS, according to the City Auditor, the City Auditor has conducted 49 close-out audits and has not made any recent significant findings; and

WHEREAS, also according to the City Auditor, there is no industry standard requiring close-out audits to be performed by the City Auditor and generally accepted government auditing standards (GAGAS) do not include any such requirement; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one proposition amending the Charter to amend the section and to repeal the language that requires the City Auditor to conduct audits and investigations of City officials and officers upon their death, resignation, or removal; and

WHEREAS, other than this language of Charter section 111, there is presently no existing written regulation that mandates that close-out audits be performed on elected City officials; and

WHEREAS, in the event that this language in Charter section 111 is repealed, the City Auditor would not be required to perform close-out audits, but also would not be precluded from performing future close-out audits pursuant to existing audit authority already conveyed under Charter section 39.2; and

WHEREAS, the Charter section also is being amended to update language consistent with the Strong Mayor form of government; and

WHEREAS, the proposed Charter amendment was proposed initially by the City Auditor and obtained the approval of the Council's Charter Review Committee and City Council at prior public hearings; and

WHEREAS, the Council, through this Ordinance, now seeks to place the proposed amendment on the June 7, 2016 Municipal Special Election ballot; and

WHEREAS, the City Council's proposal, on its own motion, of a Charter amendment is governed by California Constitution, article XI, section 3(b), California Elections Code section 9255(a)(2), and California Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That one proposition amending the City Charter by amending and retitling Article VII, section 111, related to audits and investigations of City officials and officers in the City of San Diego conducted by the independent City Auditor, is hereby submitted to the qualified voters at the Municipal Special Election to be held on June 7, 2016, and consolidated with the California State Primary Election to be held on the same date, with the proposition to read as follows:

PROPOSITION

ARTICLE VII

FINANCE

SECTION 111: AUDITS OF ACCOUNTS OF THE CITY AND CITY OFFICERS

Each year the Council shall provide that an audit shall be made of all accounts and books of all the Departments of the City. Such audit shall be made by independent auditors who are in no way connected with the City. ~~Upon the death, resignation or removal of any officer of the City, the City Auditor shall cause an audit and investigation of the accounts of such officer to be made and shall report to the Audit Committee.~~ Either the Audit Committee or the Council may at any time provide for an independent examination or audit of the accounts of any or all officers or Departments of the City government. In case of death, resignation or removal of the City Auditor, the Audit Committee shall cause an audit to be made of his or her accounts. If, as a result of any such audit, an officer be found indebted to the City, the City Auditor, or other person making such audit, shall immediately give notice thereof to the Audit Committee, the Council, the ~~Manager~~ Mayor and the City Attorney, and the latter shall forthwith proceed to collect such indebtedness.

END OF PROPOSITION

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

| | | |
|---|-----|--|
| PROPOSITION ____ . CHARTER AMENDMENT REGARDING AUDITS OF ACCOUNTS OF CITY OFFICIALS AND OFFICERS UPON THEIR DEATH, RESIGNATION, OR REMOVAL FROM CITY OFFICE. Shall the City Charter be amended to update language and to repeal the requirement that the City Auditor conduct audits and investigations of City officials and officers upon their death, resignation, or removal from City office? | YES | |
| | NO | |

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the proposition.

Section 5. Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.


Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance’s adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Kenneth R. So
Deputy City Attorney

KRS:SBS:jdf
02/22/2016
03/01/2016 REV.
Or.Dept:City Council
Document No.: 1229696_2

Passed by the Council of The City of San Diego on MAR 08 2016, by the following vote:

| Council Members | Yeas | Nays | Not Present | Recused |
|-----------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| Sherri Lightner | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lorie Zapf | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Todd Gloria | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Myrtle Cole | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mark Kersey | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Chris Cate | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Scott Sherman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| David Alvarez | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Marti Emerald | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Date of final passage MAR 08 2016

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on MAR 08 2016, said ordinance being of the kind and character authorized for passage on its introduction by Section 295 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

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